

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BOBBY DARRELL COLBERT,)
)
 Petitioner,) Case No. C11-76-RSM
)
 v.)
) **ORDER OF TRANSFER**
 STEVE SINCLAIR,)
)
 Respondent.)

The Court, having reviewed petitioner's 28 U.S.C. § 2254 petition for writ of habeas corpus, the Report and Recommendation of the Honorable Brian A. Tsuchida, United States Magistrate Judge, any objections or responses to that, and the remaining record, finds and orders as follows:

1. The Report and Recommendation is ADOPTED;
2. This case is hereby TRANSFERRED as a second or successive petition to the Ninth Circuit Court of Appeals pursuant to 28 U.S.C. § 1631 and Ninth Circuit Rule 22-3;
3. Petitioner is advised that this transfer does not of itself constitute compliance with 28 U.S.C. § 2244(b)(3) and Ninth Circuit Rule 22-3, and he must still file a

1 motion for leave to proceed in the Court of Appeals and make the showing
2 required by 28 U.S.C. § 2244(b)(2);

3 4. The Clerk is directed to close this case and to transfer all original documents to
4 the Ninth Circuit Court of Appeals;

5 5. The Clerk shall, however, retain a copy of the petition and of this Order in the
6 file, and send a copy of this Order to petitioner and to Judge Tsuchida.

7 DATED this 14 day of February 2011.

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11 RICARDO S. MARTINEZ
12 UNITED STATES DISTRICT JUDGE
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